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Croucher, Richard ORCID logoORCID: <https://orcid.org/0000-0002-9617-734X>, Houssart, Mark  
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# **The Mauritian Truth and Justice Commission: Legitimacy, political negotiation and the consequences of slavery**

**Richard Croucher, Mark Houssart and Didier Michel**

## **Abstract**

We examine the origins, processes and outcomes of the Mauritian Truth and Justice Commission's (MTJC), examination of slavery, indentured labour and their contemporary effects. It has not been considered a success by any commentator. We therefore ask how far James L. Gibson's application of legitimacy theory to 'Truth Commissions' has purchase in this context and whether it was cynically motivated. We use MTJC documentation, extensive interviews and newspaper reports to show that Gibson's theory provides insight into MTJC outcomes while demonstrating that politico-economic power structures were crucial. Conversely, the MTJC does not sit easily in Van Zyl's 'cynical operation' category.

**Keywords:** Slavery; Civic Engagement; Historical Memory; Human Rights; Mauritius; Africa.

*'We fought very hard for the establishment of the TJC. And yet we have to fight for the implementation of its recommendations'* (Elie Michel speaking at a public meeting shortly before his death)

## Introduction

We examine the origins, processes and outcomes of the Mauritian Truth and Justice Commission (MTJC), asking how illuminating ideas from ‘transitional justice’ theory are. Ours is apparently the first scholarly account. The MTJC was the first ‘Truth Commission’ to examine slavery and indentured labour’s history and consequences. These forms of labour were internationally widespread for centuries and their effects on millions have recently generated considerable debate.

The potential for transitional justice mechanisms to address historical grievances and either further or hinder social and economic progress or alternatively to do harm has been examined in numerous different contexts.<sup>1</sup> The idea of transitional justice as a way of helping societies transcend social conflict and thereby achieving greater mutual understanding and moving closer to reconciliation, has acquired widespread currency. The initial influential example of a ‘Truth Commission’ was the South African Truth and Reconciliation Commission (TRC). The TRC manifestly followed a major transition from the Apartheid era, following lengthy armed conflict with significant national and international dimensions and resonance.<sup>2</sup> Many other bodies, variously named ‘truth and reconciliation’, ‘truth and justice’ or simply ‘truth’ commissions, some with less immediately obvious rationales, were subsequently established. The sophisticated literature which has developed and discusses their foundation, operation and results may also have analytic purchase in our context.

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<sup>1</sup>Geoff Dancy and Eric Wiebelhaus-Brahm, ‘Bridge to Human Development or Vehicle of Inequality? Transitional Justice and Economic Structures,’ *The International Journal of Transitional Justice* 9(1) (2014): 51-69. Sebina Sivas-Bryant, ‘The Omarska Memorial Project as an Example of how Transitional Justice Interventions Can Produce Hidden Harms,’ *The International Journal of Transitional Justice* 9(1) (2015): 170-180. Stiina Loytomaki, ‘The Law and Collective Memory of Colonialism: France and the Case of ‘Belated’ Transitional Justice,’ *The International Journal of Transitional Justice* 7(2) (2013): 205-223.

<sup>2</sup> Jasmina Brankovic, ‘Accountability and National Reconciliation in South Africa,’ *Ediciones InfoJus: Derechos Humanos* 2 (2013): 55-86.

Slavery is increasingly salient in public discussion and looms ever larger within popular historical imaginations. In the USA, the UK and France, countries whose histories are tightly intertwined with slavery, museums, monuments, books and films have translated it from the realm of specialist history into public debate.<sup>3</sup> The critical and commercial success of several high-profile films – Stephen Spielberg’s *Lincoln* (2012), Quentin Tarantino’s *Django Unchained* (2012) and Steve McQueen’s *12 Years a Slave* (2013) -- generated much discussion.<sup>4</sup> These referred to a potentially safely-banished past but, symptomatically, they served to intensify prior debate about slavery’s contemporary impacts particularly on the descendants of slaves.<sup>5</sup> Earlier exchanges had already provoked powerful emotions but also concrete responses. Companies whose predecessor entities were involved have defended their reputations, some making apologies and redress.<sup>6</sup> In certain American states, this was stimulated by a legal requirement that companies state the role they played in slavery.<sup>7</sup> Internationally, contemporary slavery and forced labour has also gradually moved up political agendas, accelerated by the 2001 World Conference Against Racism’s Declaration asserting a strong link between slavery and racism. The realities of contemporary slavery continue to be

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<sup>3</sup> Tony Horwitz, *Confederates in the Attic: Dispatches from the Unfinished Civil War*, (New York: Vintage, 1999.) Gary W. Gallagher, *Causes Won, Lost and Forgotten: How Popular and Hollywood Art Shape What we Know about the Civil War* (Steven and Janice Brose Lectures in the Civil War Era), (North Carolina: University of North Carolina Press, 2013). Ariela Gross, ‘When is the time of slavery? The history of slavery in contemporary legal and political argument,’ *California Law Review* 96(1) (2008): 283-321.

<sup>4</sup> Moon Charania, ‘*Django Unchained*, Voyeurism Unleashed,’ *Contexts* 12(3) (2013): 58-60.

<sup>5</sup> Stephanie Decker, ‘Slavery and the Modern World,’ review of *The Transatlantic Slave Trade and the Evolution of Political Authority in West Africa*, by Warren C Whatley, *The NEP-HIS Blog*, <https://nephist.wordpress.com/2014/03/03/slavery-and-the-modern-world/> (accessed 14 March 2014). Ira Berlin, ‘American Slavery in History and Memory and the Search for Social Justice,’ *Journal of American History* 90(4) (2004): 1251-1268.

<sup>6</sup> Antonio Moore, ‘Slavery’s Shadow: Reparations and the Cost to Build a Nation,’ *Huffington Post*, 2014, [http://www.huffingtonpost.com/antonio-moore/slaverys-shadow-how-forbe\\_b\\_5505319.html](http://www.huffingtonpost.com/antonio-moore/slaverys-shadow-how-forbe_b_5505319.html)

<sup>7</sup> Peter Flaherty and John Carlisle, *The Case against Slave Reparations*, (Virginia: National Policy Centre, 2004).

brought to public attention by well-known organisations such as Slavery International and the International Labour Organisation.<sup>8</sup>

Mauritian history involves three ex-imperial countries. Mauritius was ruled by the Netherlands' East India Company in the 17<sup>th</sup> century; France colonised the island (1690-1810) to be displaced by Britain (1810-1968) who allowed the land and slave-owning Franco-Mauritian elite to retain their leading position in the island's economy and polity.<sup>9</sup> The extent and limits of the colonial powers' responsibilities for presiding over, legitimating and facilitating slavery and indentured labour have been documented.<sup>10</sup> After the British abolished slavery in their empire, both it and the slave trade continued for decades in its French counterpart. As Mauritian ex-slaves rejected plantation work, the British imperial authorities helped the Franco-Mauritian plantocracy to import Indian labourers, instituting what some Victorians felt was a 'new system of slavery.'<sup>11</sup> Foreign relations, especially with these two ex-colonial countries, remain important and have helped maintain Mauritius's economically essential international trade links.<sup>12</sup>

The local elite's responsibility is less well documented and understood internationally.

French (including the Code Napoléon) and English law currently apply, structuring the terms of employment along with Mauritian law; the French language is widely used together with

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<sup>8</sup> World Conference Against Racism, Durban 2001: General Issues, paragraph 13 (<http://www.un.org?WCAR/durban.pdf>; ILO, *Global Estimate of Forced Labour, Executive Summary*, (Geneva: ILO Special Action Programme to Combat Forced Labour, 2012.)

<sup>9</sup> Richard B. Allen, *Slaves, Freedmen, and Indentured Labourers in Mauritius*, (Cambridge: Cambridge University Press, 1999).

<sup>10</sup> Ibid.

<sup>11</sup> Hugh Tinker, *A New System of Slavery: The Export of Indian Labour Overseas, 1830-1920*, (Oxford: Oxford University Press, 1974).

<sup>12</sup> Elwyn Chutel, 'Perceptions of Mauritian Development' (MA diss., Middlesex University, 2012).

English in legal and public discussion although the vernacular idiom is Mauritian Kreol. Although diminished in power by the rise of other ethnic groups, the numerically tiny Franco-Mauritian elite remains economically central, this internally cohesive and culturally distinct ex-slave owning group having become the country's main provider of investment.<sup>13</sup> Mauritius depended and continues to draw on local capital.<sup>14</sup> The Francophone elite which owns this capital is ethnically and culturally distinct from the rest of the population; as in the United States, slavery had a strong ethnic dimension.<sup>15</sup> The descendants of their slaves were estimated by the TJC to amount to 25% of a population of 1, 275,000<sup>16</sup> They are known as 'Creoles', a problematic term because of ethnic miscegenation; the island has a claim to be the most ethnically diverse on the planet.<sup>17</sup> The Creoles' economic and social position is comparatively poor. Those of Indian descent—often the descendants of bonded labourers--constitute the majority of the population and play a key role in large companies and public service. They also dominate politics, whilst the Francophone group have both economic power and a major if background political role.<sup>18</sup>

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<sup>13</sup> David Lincoln, 'Beyond the Plantation: Mauritius in the Global Division of Labour,' *Journal of Modern African Studies* 44(1) (2006): 59-78.

<sup>14</sup> Richard B. Allen, *Slaves, Freedmen, and Indentured Labourers in Mauritius*, (Cambridge: Cambridge University Press, 1999). David Lincoln, 'Beyond the Plantation: Mauritius in the Global Division of Labour,' *Journal of Modern African Studies* 44(1) (2006): 65-6 and *passim*.

<sup>15</sup> Megan Vaughan, *Creating the Creole Island: Slavery in Eighteenth-Century Mauritius*, (Durham, North Carolina: Duke University Press, 2005).

<sup>16</sup> Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission*, (Mauritius, Government of Mauritius, 2001): 2. These figures are based on the 2000 Housing and Population Census which contained no question on the subject of slave descent. Statistics Mauritius conducted a later census in June and July 2011 containing linguistic questions which might conceivably be used but these statistics were not analysed by the MTJC which reported in November 2011: <http://statsmauritius.govmu.org/English/CensusandSurveys/Pages/census/Census-2011.aspx>.

<sup>17</sup> Erik Gilbert. Review of Megan Vaughan 'Creating the Creole Island: Slavery in Eighteenth-Century Mauritius' *Itinerario*, 30 (2006): 109-111.

<sup>18</sup> Richard Sandbrook, Mark Edelman, Patrick Heller and Judith Teichman, *Social Democracy in the Global Periphery. Origins, Challenges, Prospects*, (Cambridge: Cambridge University Press, 2007).

Collective memories of slavery and indentured labour have long impacted on contemporary events; the major Mauritian labour revolts of the late 1930s were presaged by meetings in 1935 commemorating slavery's abolition.<sup>19</sup> It has been suggested that slavery still exerts a cultural influence on relations between managers and employees on the island and in particular on the descendants of slaves<sup>20</sup> Thus, partly because of this multi-racial society's ethnic issues, questions of the legacy of previous forms of labour continue to loom especially large.<sup>21</sup> So, too, do issues of land ownership as members of all ethnic communities purchased land in the Nineteenth Century, often losing it subsequently to more powerful landowners including the sugar companies through having poor or non-existent legal title and financial inability to pursue legal cases.<sup>22</sup>

The Mauritian use of a 'Truth Commission' to confront slavery- and indentured labour-related issues was unique internationally. These Commissions have been defined as 'truth-seeking bodies set up to investigate past records of human rights violations' in the hope that they will create a shared understanding and a degree of reconciliation.<sup>2324</sup> To this extent, the MTJC may be argued to have attempted to effect transitional justice. However, three major

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<sup>19</sup> S. Narain "The Mauritius Labour Party: historical perspective" (Unpublished MA dissertation, University of Mauritius :MAU/D JQ3178. N3 1999), 8-10.

<sup>20</sup> Anita Ramgooty-Wong, 'HRM in Mauritius,' in *Managing Human Resources in Africa*, ed. Ken Kamoche, Yaw A. Debrah, Frank M. Horwitz and G.N. Muuka (London: Routledge, 2004), 101-102.

<sup>21</sup> L. Sylvio Michel, *L'Organisation Fraternelle. Noir Sur Blanc* (Port Louis:the author, 1998).

<sup>22</sup> Richard B. Allen, *Slaves, Freedmen, and Indentured Labourers in Mauritius*, (Cambridge: Cambridge University Press, 1999).

<sup>23</sup> Michal Ben-Joseph Hirsch, Megan MacKenzie and Mohamad Sesay, 'Measuring the Impacts of Truth and Reconciliation Commissions: Placing the Global 'Success' of TRCS in Local Perspective,' *Cooperation and Conflict* 47(3) (2012): 386-403.

<sup>24</sup> Priscilla B. Hayner, *Unspeakable Truths: Confronting State Terror and Atrocity*, (London: Routledge, 2002).

differences between this and normal ‘transitional justice’ contexts are evident. The first is the simple fact that slavery is more historically distant than events often considered within transitional justice frameworks. Investigating a contemporary problem’s historical origins inevitably involves major difficulties in establishing robust causal links. This is linked to other serious philosophical and methodological issues, notably in setting national events in a wider perspective (Kershner, 2002 argues that investigations into slavery’s consequences are innately flawed, since they cannot observe a world without slavery).<sup>25</sup> Secondly, the exercise might be merely cosmetic, an attempt to lay a contemporary concern to rest without any serious intention of changing society or its perceptions. Intentions are difficult to establish with any degree of certainty. However it is conceivable that the MTJC might be seen as one of those Commissions evaluated by Paul Van Zyl as ‘cynical efforts to evade responsibility for dealing with the past’ (227), a possibility we discuss.<sup>26</sup> Thirdly, if, as Van der Merwe and Brankovic (2014) argue, transitional justice is caught between the normative claims of international human rights and local norms and constraints, the argument applies *a fortiori* to the world’s first public inquiry into slavery’s consequences because of the absence of any clear international consensus on that subject in comparison to universal condemnation of the contemporary phenomenon.<sup>27</sup>

Whether the MTJC was a ‘success’ is debatable; but we have been unable to find any local commentator arguing that it was. None of our many respondents drawn from different social

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<sup>25</sup> Stephen Kershner, ‘The Inheritance-Based Claim to Reparations,’ *Legal Theory* 8(2) (2002): 243-26.

<sup>26</sup> Paul van Zyl, (2005) ‘Promoting Transitional Justice in Post-Conflict Societies,’ in *Security Governance in Post-Conflict Peacebuilding*, ed. Alan Bryden and Heiner Hänggi. Geneva: Centre for the Democratic Control of Armed Forces, 227.

<sup>27</sup> Hugo van der Merwe and Jasmina Brankovic, (2014) ‘Transitional justice and human rights’ in *The Sage Handbook of Human Rights*, ed. A Mihr and Mark Gibney: London: Sage, 895-908.



strata thought it so. Moreover, the Commission's recommendations had not been implemented at the time of writing in early 2015 despite pressure from opposition politicians and a hunger strike by ex-Minister Sylvio Michel.<sup>28</sup> The Commission's ex-President drew attention to governmental inaction in the island's press in late summer 2014, expressing scepticism that implementation would ever occur. The interviewing journalist described the results of the Commission's work overall as 'almost nil' (--'quasi nul').<sup>29</sup> This lack of governmental action does not preclude certain achievements. First among these could have been a convincing version of Mauritian history that could serve as a reference point to Mauritians in current political debate. It could also empirically support demands for reparations and legal cases to be pursued with the ex-imperial powers and with companies as Croucher and Michel argue remains possible.<sup>30</sup> Prima facie archival evidence of some crimes exists and certain offences are not time-limited under French and English law.<sup>31</sup> It could also help resolve legal claims for 'lost' land and memorialise slavery's history.

Criteria for Truth Commission success have been discussed by transitional justice experts and we therefore use an outer analytic frame drawn from this literature. We evaluate the Commission's origins and outcomes using Gibson's framework based on legitimacy theory.<sup>32</sup> We do so even though the Mauritian case is clearly not 'transitional'. As Aukerman argues, local socio-economic specificity must be fully accounted for in transitional justice

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<sup>28</sup> Mauritius Parliamentary Debates: Oral answer to question from Mr Paul Bérenger, session 7/12/2011.

<sup>29</sup> Interview with Alex Boraine by Henri Marimootoo, in *Weekend*, August 3, 2014.

<sup>30</sup> Richard Croucher and Didier Michel, 'Legal at the Time? The Case of Mauritian Slavery,' *Journal of African Law* 58 (1) (2014): 89-108.

<sup>31</sup> Ibid.

<sup>32</sup> James L. Gibson, 'On Legitimacy Theory and the Effectiveness of Truth Commissions,' *Law and Contemporary Problems* 72(2) (2009): 123-141.

situations.<sup>33</sup> Gibson asserts that ‘truth processes are endogenous’ and a function of the society in which they operate (2009: 128).<sup>34</sup> A detailed contemporary historical account of the Commission’s origins is therefore nested within the outer analytic frame. We show that the MTJC resulted from an élite political negotiating process and sought to forge national unity in the face of past human rights abuses. There is therefore a degree of commonality between this and other Truth Commissions’ investigations.

The article is structured as follows. We outline Gibson’s conditions for Truth Commission success. After explaining our methods, we analyse the Commission’s origins, drawing primarily on two sets of interviews. In the article’s central section, we provide a critical account of the MTJC’s operation and results. We offer an analysis of the MTJC’s historical approach, since the resultant account constitutes its recommendations’ foundation. We conclude by answering our initial research question concerning the utility of transitional justice ideas to this and by extension to any future Truth Commission on slavery.

### **Gibson’s theory**

Gibson’s theory reflects a wider consensus in ‘transitional justice’ thinking and in that sense is paradigmatic of a wider school of thought. It is used and examined here because it draws on wide experience of such commissions and locates them firmly in their broad socio-political context.

Gibson begins by suggesting that it is unrealistic to expect major results; he argues only that Commissions can contribute to societal transformation ‘under at least some conditions and to

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<sup>33</sup> Miriam J. Aukerman, ‘Extraordinary Evil, Ordinary Crime: A Framework for Understanding Transitional Justice,’ *Harvard Human Rights Journal* 15(39) (2002): 92.

<sup>34</sup> James L. Gibson, ‘On Legitimacy Theory and the Effectiveness of Truth Commissions,’ *Law and Contemporary Problems* 72(2) (2009): 128.

at least a limited degree'.<sup>35</sup> It may be realistic to hope for 'some common understanding of a country's conflictual past'. Commissions must change beliefs and attitudes as a part of a process of societal transformation, eliciting 'credible information about the past'.<sup>36</sup> He suggests that the South African TRC 'generated a truth about the past that is fairly widely accepted', whose proceedings bought the transition process 'breathing space' during which democratic institutions and processes could be built.<sup>37</sup> Conditions for success are related to a 'simple micro model' of legitimacy where the latter is defined as 'the belief that authorities, institutions and social arrangements are appropriate, proper and just'.<sup>38</sup> Effectiveness depends on two 'crucial' factors<sup>39</sup>: whether the commission can attract the attention of its constituents and whether it is popularly perceived as legitimate. The Commission's *modus operandi* should buttress its legitimacy by enhancing perceptions of fairness through even-handedness, but the two preconditions must first be met.<sup>40</sup> Those not defining themselves as political activists form a Truth Commission's real constituency. Constituents' involvement can ensure perceptions of fairness by pressurising the inquiry to operate carefully and conscientiously, to move in relevant directions and operate in ways consistent with their interests.

## **Method**

Our research has contemporary and historical dimensions, requiring different methods. To investigate contemporary issues, we used transcripts of a series of fifteen interviews with members of the local political elite conducted in 2013 in English by another researcher.

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<sup>35</sup> Ibid., 124.

<sup>36</sup> Ibid., 125.

<sup>37</sup> Ibid., 124.

<sup>38</sup> Ibid., 137.

<sup>39</sup> Ibid., 125.

<sup>40</sup> Ibid., 125.

Although they contained information about the MTJC, they were mainly valuable because they provided an external, contextual perspective; they are used as background here. These helped us locate the MTJC's origins in a broad political context.<sup>41</sup> We conducted intensive semi-structured interviews in Kreol with six individuals involved with the MTJC, several of whom also made depositions to it. The interviews were transcribed and coded manually to correspond to our themes. They were used in constructing our section on the MTJC's origins and form its main basis. We also conducted thirty brief interviews in Kreol with an opportunity sample of Creoles in order to assess their awareness of the MTJC. All interviews were carried out after the MTJC had reported. We used numerous documents prepared for the MTJC in English and French concerning its establishment and depositions made to it. Press reports of the MTJC's work and its aftermath published in Mauritian newspapers were also studied. Our account has inevitably been limited by the non-availability of internal government documentation to ourselves and to other contemporary historians.

For the historical strand we used the extensive and growing literature on Mauritian history in French and English, including dissertations from the University of Mauritius. We also consulted documentation in the UK and Mauritian National Archives.

### **The MTJC's origins, operation and results**

In this section, we report on our investigation into the MTJC's origins, demonstrating that the Mauritian MTJC originated in an elite political process that strictly limited any later efforts it might make to involve the wider public or to effect attitudinal changes within it.

The island has, since independence, been an essentially social democratic state where left-wing parties, notably the powerful Mauritian Labour Party, have dominated; the latter has

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<sup>41</sup> We thank Mr Elywyn Chutel for these transcripts.

been the ‘natural party of government’. The Franco-Mauritian industrial and financial élite have compromised with their political counterparts: they continue to invest provided that they are permitted to carry on business with minimal interference.<sup>42</sup> They have experienced none of the devastation involving military ‘politicians on horseback’ and wars that many other African states have suffered. It bears repeating that the island’s economic success has depended on combining these internal advantages with trade links supported by an effective foreign diplomacy within which relations with the ex-colonial powers have proved especially useful.<sup>43</sup> Creoles on the other hand have been economically excluded and are further disadvantaged by the electoral system. They have no equivalent to the Labour Party, largely abstain from voting and have only exceptionally acquired positions in the public service.<sup>44</sup>

Nevertheless, a small but cohesive political party with an active membership of a few hundred (the membership in early 2015 is some 200) was able, by focusing on Creoles’ position, to create conditions for the MTJC’s establishment. The party, originally called the *Organisation Fraternelle* (OF) and later re-named *Les Verts Fraternels* (VF), was formed in April 1968 at a public meeting held at Mont Choisy where their brown was erected in commemoration of the slave maroons who had temporarily escaped their masters. The context was of racial violence from which they arguably suffered disproportionately. OF/VF’s leaders were and remain politically multi-lingual sophisticated intellectuals. The party’s main objective was and remains to act for the benefit of the descendants of slaves. In 1976 they were the first to erect a monument to commemorate the abolition of slavery in Mauritius. In that year, the party’s leader Sylvio Michel was elected to parliament and his

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<sup>42</sup> Richard Sandbrook, Mark Edelman, Patrick Heller and Judith Teichman, *Social Democracy in the Global Periphery. Origins, Challenges, Prospects*, (Cambridge: Cambridge University Press, 2007).

<sup>43</sup> Elwyn Chutel, ‘Perceptions of Mauritian Development’ (MA diss., Middlesex University, 2012).

<sup>44</sup> Ibid.

first motion was to propose the institution of 1 February as a public holiday to commemorate slavery's abolition; the then Legislative Assembly decided to establish a committee to investigate the matter (probably because slavery was considered a sensitive issue). The MTJC mentioned his initiative to establish a 'committee on reparations for slavery' in early 1999.<sup>45</sup> The aim of this parliamentary select committee was 'to consider compensation for slaves'. The MTJC described the committee's fate: 'Days after this committee was established, bloody riots broke out in Mauritius and the Chairman of the committee was appointed to head an investigation into the riots. As a consequence, this early attempt never got off the ground'.<sup>46</sup> The MTJC's account presents this in terms of the Chairman's commitments, yet the 1999 ethnic riots manifested more fundamental issues. They dramatically underlined how any discussion of compensation for the descendants of slavery threatened to exacerbate tensions between the island's two main ethnic communities. Here was a sizeable barrier to compensation-based solutions linked *solely* to slavery. In 2000, VF allied with the Mouvement Socialiste Militant (MSM) and Mouvement Militant Mauricien (MMM) parties to contest the General Election; the pact's basis was that 1 February would be a public holiday and that a Commission would be established to study slavery's consequences. After the election, this brought a further abortive attempt to establish a special committee in 2004 which failed despite the National Assembly passing a motion to do so. To obtain a majority for that motion, Michel was compelled to include indentured labour in the committee's terms of reference. Following the failure to set up a committee at all, Michel resigned as Minister and in opposition the Labour Party adopted the idea in its 2005 General Election manifesto. The inclusion of indentured labour in any Truth Commission's terms was now assured. It

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<sup>45</sup> Mauritius Truth and Justice Commission Report, *Volume 1: Report of the Truth and Justice Commission*, (Mauritius: Government of Mauritius, 2001), 6-7.

<sup>46</sup> Mauritius Truth and Justice Commission Report, *Volume 1: Report of the Truth and Justice Commission*, (Mauritius, Government of Mauritius, 2001), 7.

implied either compensating the majority of the island's population or only one part of it thereby potentially inflaming ethnic tensions.

Hence, OF/VF had sufficient influence to achieve a MTJC, but only on the basis outlined above. It had only ever achieved very limited electoral success and did not win any seats in the subsequent General Election. OF/VF, as a campaigning advocate of labour's interests, could accept the idea of indentured labour as an unpalatable system at the ideological level; including it in an inquiry along with slavery was in this sense acceptable. However, indentured labourers had been at least formally free and indenture was not a hereditary status even if their material conditions had been close to those of slaves.<sup>47</sup> The introduction of indentured labourers later helped senior politicians to deflect discussion of the specific problems encountered by the descendants of slaves after the MTJC report was published.<sup>48</sup>

The MTJC therefore originated in prolonged and determined political activity by the tiny but active OF/VF culminating in alliance with the much larger and electorally successful Labour Party. Wider public involvement was limited. Our interviews with Creoles after the Commission reported revealed that none of our thirty respondents were aware of the Commission's existence although many debated the issues involved with the researcher when told it did. Members of the Franco-Mauritian elite were well aware of its existence and objected publicly to it.<sup>49</sup>

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<sup>47</sup> Alessandro Stanziani, *Bondage. Labor and Rights in Eurasia from the Sixteenth to the Early Twentieth Century*, (New York: Berghahn Books, 2014).

<sup>48</sup> The Prime Minister (himself the descendant of an indentured labourer) argued at that point that although the perception was that slaves had been especially badly treated, 'the reality is that the treatment (of indentured labourers: authors) was very harsh and that they concentrated on education....' Mauritius Parliamentary Debates: Oral answer to question from Mr Paul Bérenger, session 7/12/2011.

<sup>49</sup> Interview with Alex Boraine by Henri Marimootoo, in *Weekend*, August 3, 2014.

## **The MTJC's operation and historical account**

The MTJC was established by the Truth and Justice Commission Act, no. 28 of 2008, taking effect from 1 February 2009. The Act established the MTJC's terms of reference and powers. A central issue in the terms of reference had been the question of compensation. Although the first draft contained the word, the approved version did not. Moreover, it omitted the specific objective of identifying the institutions and individuals responsible for slavery which had been a feature of earlier committees.<sup>50</sup> Its objects were 'to make an assessment of the consequences of slavery and indentured labour during the colonial period up to the present'. The Act also contained a clause (4c) specifying a separate and onerous function: to enquire into any complaint made by anyone 'aggrieved by a dispossession or prescription of any land in which he claims he had an interest'. The MTJC was to make recommendations to the President 'on measures to be taken following its assessment and its findings with a view to achieving social justice and national unity'. The Commission was accorded considerable powers. They could make visits, take copies of documents, summon witnesses on oath, gather information in foreign countries with the Prime Minister's approval and seek disclosure of any document even where confidential information was involved. The secretary to the Cabinet and Head of the Civil Service were empowered to make staff available, without any limitation. It was required to report within twenty four months, extendable by a further six on Presidential approval.

The Act specified that the MTJC would have five members. The chairperson's position was clearly important. The first person appointed was the South African academic Professor Robert Shell. Before the Commission began work, he allegedly fell out with other members,

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<sup>50</sup> Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission*, (Mauritius, Government of Mauritius, 2001), 7.



and made statements to the press mentioning compensation to the descendants of slaves.<sup>51</sup>

Official accounts assert that he was unable to continue for personal reasons. He was replaced by another academic, Dr Alexander Boraine, previously Deputy Chair of the South African TRC.<sup>52</sup> The MTJC contained four other members probably the most notable and influential of whom was Dr Vijayalakshmi Teelock, the leading historian of Mauritian society, slavery and indentured labour who served as Chairperson after Shell's departure and then as Vice-Chairperson on Boraine's arrival.<sup>53</sup> Three main areas of investigation were identified when the Commission met: the revision of history, 1723-2008; the consequences of slavery and indentured labour on society and 'measures to achieve Social Justice'. The operation's parameters were now defined. It was to be an historical inquiry into slavery and indentured labour and its consequences; the results were to be directed towards achieving 'national unity'.

The MTJC sought to publicise its activities among the local population, sending out brochures in all four of the country's languages (English, French, Bhojpuri and Kreol). The method's limitations when dealing with a Creole audience with low levels of literacy are evident. We repeat that our brief indicative survey of thirty Creoles showed that none was aware that a MTJC existed. Gibson (125) argues that getting constituents' attention is 'determined largely by the type of messages the commission promulgates, with simple messages...'.<sup>54</sup> We can find no trace of such an approach in the MTJC's formal publicity.

The Commission pursued its work in several ways. It took depositions from political parties

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<sup>51</sup> *Lalit*, 'Le Débauché de la Commission,' 17 November 2009.

<sup>52</sup> MTJC Report vol.1:9; Mauritius Parliamentary Debates: Oral answer to question from Mr Paul Bérenger, session 7/12/2011.

<sup>53</sup> See, *inter alia*, her excellent work *Bitter Sugar. Sugar and Slavery in 19<sup>th</sup> Century Mauritius* (Moka, Mauritius: Mahatma Gandhi Institute, 1998).

<sup>54</sup> James L. Gibson, 'On Legitimacy Theory and the Effectiveness of Truth Commissions,' *Law and Contemporary Problems* 72(2) (2009): 123-141.

and organisations, although despite its extensive powers it notably required no evidence from any of the entities which benefitted from slavery. It also received them from many individuals interested in establishing their ancestry. Some recounted their experiences through oral history projects. It synthesised and interpreted the considerable volume of scholarly historical work published from the Nineteenth Century onwards in English and French, supplementing it by archival research in France, Britain and Mauritius.

The MTJC's public report consists of four volumes covering 2,800 pages; there is also a confidential report in two CDs. The published volumes represent a synthesis not only of the history of slavery and indentured labour but more widely of the history of land ownership and of the adjacent Western Indian Ocean islands such as the Chagos and Réunion. Gibson argues that providing a credible account of history is essential for Truth Commissions to succeed.

Whether the MTJC's historical analysis is adequate is also important both because it constitutes the foundation of its contemporary recommendations and because its authenticity is related to its public resonance. Overall, it is a valuable source on the history of Mauritius.

The MTJC report constitutes a detailed history of slavery and indentured labour with particular strengths in the origins and position of indentured labourers in the Nineteenth Century.

The MTJC launched an oral history exercise to collect reminiscences and reported on these in detailed specialist studies in volumes 3 and 4 of its report. The oral history project was the main method of directly involving slaves' descendants. It drew on and echoes many of the experiences of the projects organised by the Works Progress Administration within the USA's Federal Government in the 1930s.<sup>55</sup> The work was led by a team of historians and anthropologists from the University of Mauritius, who conducted a set of around two hundred

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<sup>55</sup> Edward E. Baptist, *The Half Has Never Been Told. Slavery and the Making of American Capitalism*, (New York: Basic Books, 1999): xiii-xxvii and *passim*.

interviews in Kreol and French (the second language of many Kreol speakers, one with which the interviewers were probably more familiar) with people from Mauritius, Rodrigues, the Chagos and other islands. It provided a way of their transmitting the experiences handed down to them across the generations and the experience is significant for what it reveals of this constituency and its attitude to the MTJC. The project's interviews show that most informants had not previously been aware of the MTJC. The researchers also record that some slave descendants who others reported were well known in the community for their good access to oral traditions refused to participate, feeling 'it was useless and was not going to be of any benefit to them.'<sup>56</sup> Here was a clear manifestation of the gulf between public and academic inquiry on the one hand and the strong Creole oral tradition on the other. Also in evidence was a clash between narrative and analytic traditions: many participants had difficulty in answering questions. Many participants clearly had to be cajoled into participation. The resultant transcripts show the widespread sense of shame many respondents felt and reported on the part of others, a pervasive sense of the link between their ancestors' experiences and their own and a wish for restitution,<sup>57</sup> directly contradicting the assertion in the MTJC Report that people lived 'in total ignorance' of their ancestors' experiences',<sup>58</sup> The non-participation of key individuals within the Creole community gives cause for concern. So, too, do the reports of our respondents who attempted to discover their own genealogy in an effort, as they explained to us, to establish that their ancestors were not 'lazy', why it was that they were not sent to school or why their ancestors owned little property. Aware of the potential argument eventually employed by the MTJC that

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<sup>56</sup> Mauritius Truth and Justice Commission Report, *Volume III: Contemporary History, Culture and Society*, (Mauritius: Government of Mauritius, 2001), 5-6.

<sup>57</sup> Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission*, (Mauritius: Government of Mauritius, 2001), 6-7.

<sup>58</sup> Mauritius Truth and Justice Commission Report, *Volume III: Contemporary History, Culture and Society*, (Mauritius: Government of Mauritius, 2001), 1.

compensation was impossible because of insufficient information about family histories, they sought to disprove it at least in their own cases. All six reported that they had reconstructed their lineages in the face of clear official obstruction by government officials, or, as one of them, Mrs Agathe, recounted, the creation of ‘administrative hurdles.’ Their considerable efforts hardly speak of ‘total ignorance’ nor of a lack of interest; rather, they reflect a concern to contribute to ‘subaltern prosopography’ as practised and advocated by Clare Anderson.<sup>59</sup>

Although the MTJC was unable to access important wells of collective experience in the Creole community, it reached pro-slave descendant conclusions. The Commission explained its main line of argument in summarising its findings: its work had ‘demonstrated convincingly that the process of exclusion of descendants of slaves, prevailing today, originated at the time of abolition of slavery. The cheap labour policy adopted then by the plantocracy and the Colonial State, contributed into (*sic*) their leaving the plantations. Further development (*sic*) in the 19th and 20th centuries would confirm this trend’.<sup>60</sup> The report demonstrates that slavery and the slave trade created the foundation for some families in Mauritius and France to accumulate capital subsequently invested in finance and business.<sup>61</sup> The report is imbricated with denunciation of slavery, indentured labour and their far-reaching consequences in the Twentieth and Twenty-First Centuries. It therefore challenges the previously influential Francophile account of Karl Noël who advanced--on a thin evidential base--a view of slavery on the island as relatively benign.<sup>62</sup>

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<sup>59</sup> Clare Anderson, *Subaltern Lives. Biographies of Colonialism in the Indian Ocean World, 1790-1920*, (Cambridge: Cambridge University Press, 2012).

<sup>60</sup> Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission*, (Mauritius, Government of Mauritius, 2001), 2.

<sup>61</sup> Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission* (Mauritius: Government of Mauritius, 2001), 3.

<sup>62</sup> Karl Noël, *L’Esclavage à l’Isle de France, (Ile Maurice) de 1715 à 1810* (Poitiers: Editions Two Cities, 1991). He asserts (85) that ‘The patriarchal system was practised by masters with a certain bonhomie’ (‘Le

The report is informed by a sharp awareness of the ethnic differences and divisions between and within different elements in Mauritian society, which it argues are less genuinely distinct than often thought. The Franco-Mauritian minority is, like other groups, also argued to be ethnically heterogeneous, thereby emphasising the underlying ‘national unity’ theme since all ethnic groups may be collapsed into an over-arching nationality. The Franco-Mauritians are portrayed as the subject of a ‘Myth of intellectual and ultimately racial superiority..... there is the stereotyped and racist belief that whites are better at investing.....’.<sup>63</sup> The report shows that their position owed much to a nexus of cultural and political authority, power and consequent material privilege. Despite the dropping of the requirement for the Commission to identify those responsible for slavery, it provided much information on that subject and on one company that benefitted from slavery. Other companies (we have identified five) directly involved in slave owning and which continue to operate at the time of writing were not investigated in the same detail. Thus, the history of the Mauritius Commercial Bank’s foundation in slavery and its links both to the Franco-Mauritian élite and to British finance houses is traced. The bank was founded on compensation paid to the slave owners by the British government.<sup>64</sup> Compensation was paid even though many of the slaves involved had been brought into Mauritius illegally.<sup>65</sup> The slave owners had also received cash from some nine thousand slaves who bought their freedom during the period of ‘apprenticeship’

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ystème patriarcal y était pratiqué par les maitres avec un certain bonhomie...’)marginalises slavery’s structural brutality and the specific vicious behaviours of many slave masters documented by Teelock, op.cit.

<sup>63</sup> Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission*, (Mauritius, Government of Mauritius, 2001), 285.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

ostensibly designed to facilitate the transition to slavery's full abolition.<sup>66</sup> The bank is now one of the most successful in Africa.<sup>67</sup>

The report presents broadly credible history despite its concern to establish the 'national unity' theme, and if gaps remain in the narrative partly due to the lamentable state of Mauritian archives (the authors' experience in them is similar to that reported by the MTJC) it successfully establishes slavery's impact down to the present.<sup>68</sup> Since its appearance but drawing on a substantial volume of research carried out before the MTJC Report was published, its findings have been confirmed, amplified and supplemented by numerous works by scholars taking a range of different perspectives. First, the unusually high rate of return on capital enjoyed by slave owners including in these colonies built the foundations of their wealth maintained across subsequent centuries.<sup>69</sup> Second, it has been demonstrated that slavery itself was illegally continued for a period under French rule despite its repudiation by the metropolitan government. This calls into question the prominent argument against reparations that slavery was 'legal at the time'. Detailed examination of French and English law by the same researchers suggests that legal grounds exist for reparations demands and even court cases aimed at France and Britain.<sup>70</sup> Third, indentured labourers' earnings were

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<sup>66</sup> Richard B. Allen, *Slaves, Freedmen, and Indentured Labourers in Mauritius*, (Cambridge: Cambridge University Press, 1999).

<sup>67</sup> Ramesh Durbarry, 'Tourism and Economic Growth: The Case of Mauritius,' *Tourism Economics* 10(4) (2004): 389-401.

<sup>68</sup> Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission*, (Mauritius: Government of Mauritius, 2001), 9.

<sup>69</sup> Thomas Piketty, *Capital in the Twenty-First Century*, (Cambridge, Mass: Belknap Press of Harvard University Press, 2014).

<sup>70</sup> Richard Croucher and Didier Michel, 'Legal at the Time? The Case of Mauritian Slavery,' *Journal of African Law* 58(1) (2014): 89-108.

always threatened by strong labour market competition from unfree labour.<sup>71</sup> Post-emancipation, the replacement of slavery in the Western Indian Ocean by closely related ‘other forms of servitude’ and their longevity in the region has been painstakingly documented.<sup>72</sup> The other labour forms included extension of the pre-revolutionary French *corvée* system under which landowners lent slaves or later indentured labourers to the government to construct roads, and the extensive use of convict labour often transported from elsewhere in the British Empire.<sup>73</sup> Fourth, the persistence of a ‘master and servant’ conception of the employment relationship after the abolition of slavery in Mauritius and the Indian Ocean region have also been extensively documented, along with the persistence of pervasive discrimination against former slaves and those of African ethnic origin (Stanziani, 2014: 194).<sup>74</sup> It was these realities that led some Victorians to argue that labour conditions had not improved despite slavery’s abolition. It took a century after abolition for action from below to challenge these relationships and the comparatively low pay that they entailed. Fifth, the channels through which the Franco-Mauritian elite exercised effective political influence (through their majority on the colony’s governing institutions) and economic power (through their employers’ association, the Sugar Syndicate) to restrict the scope of initial trade union legislation proposed by the British Governor and the Colonial Office in the critical 1937-1938 period have also been explored. The law –criticised by Colonial Office officials-- severely restricted trade unions as bargaining agents, and formed the bedrock on which post-

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<sup>71</sup> Clare Anderson, *Convicts in the Indian Ocean: Transportation from South Asia to Mauritius: 1816-53*. (Basingstoke, MacMillan: 2000).

<sup>72</sup> Clare Anderson, *Subaltern Lives. Biographies of Colonialism in the Indian Ocean World, 1790-1920*, (Cambridge: Cambridge University Press, 2012).

<sup>73</sup> Ibid..

<sup>74</sup> Alessandro Stanziani, *Bondage. Labor and Rights in Eurasia from the Sixteenth to the Early Twentieth Century*, (New York: Berghahn Books, 2014).

colonial legislation was built.<sup>75</sup> None of these scholarly findings contradict the MTJC's account. Rather, they expand and lend support to it by providing further detailed empirical underpinnings and supportive arguments. They collectively develop its depiction of the profitability of slavery and the continued long-term influence of socio-economic relationships established prior to formal emancipation. Indeed, an increasingly rich and nuanced picture is emerging of continuities in the history of labour-capital relations from slavery through to the present.

### **MTJC Recommendations and Results**

The MTJC's terms of reference did not require it to determine reparations to the descendants of slaves. Nevertheless, it was aware of the argument and its political significance. All of our Creole respondents expressed the view that financial compensation was an appropriate recompense for their and their ancestors' suffering. The recommendations therefore positioned compensation as an *alternative* to more fundamental social reform. It argued without presenting any detailed evidence that cash compensation had brought negative results in other cases whilst citing the difficulty of identifying the descendants of slaves—an assertion deliberately shown by some of our respondents to be incorrect in at least some cases:

‘Payment of cash compensation to people banished from the Diego Archipelagos has proved damaging. Given the difficulty to identify broadly people of slave descent from among the general population, this exercise can end up in frustration. Reparation by way of positive discrimination and an integrated rehabilitation plan concerning schooling of children, better housing conditions, elimination of discrimination on the employment market, whether in the

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<sup>75</sup> Richard Croucher and John McIlroy, ‘Mauritius 1937: The Origins of a Milestone in Colonial Labour Legislation,’ *Labor History* 54(3) (2013): 223-239.



public and private sector, review of the electoral system in order to pave the way for better representation in electoral constituencies of Creoles was considered the better and more enduring option.’<sup>76</sup>

The MTJC specified that reparations should be sought from the ex-colonial powers to fund the measures it recommended. It also called for public apologies from the sugar industry, the Chamber of Commerce and the Church. Further extensive and detailed recommendations to government emphasised the need to memorialise slavery and indentured labour, and to raise awareness of national history. This included many detailed measures, such as a monument to illegal slave trading on Bel Ombre Sugar Estate to be erected at the estate’s expense; it was an unusual and minor reference to a specific company. It further recommended, as indicated in the quotation above, a review of the electoral system which it found uncondusive to securing the Creole community’s representation, and the elimination of discrimination in the labour market. Nothing beyond a few tiny symbolic measures such as that in relation to the Bel Ombre Sugar Estate was to be paid for by the descendants of slave owners.

The recommendations did offer some substantial hope to those descendants of slaves and indentured labourers with a claim to land. The MTJC recommended establishment of a Land Monitoring and Research Unit to assist in resolving disputes through improved documentation rather than through difficult and expensive court proceedings. The government subsequently counter-proposed the establishment instead of a mediation committee as a more comprehensive means of dealing with the problem, but this too has neither been instituted nor discussed since the period immediately following the Commission’s report. Several of our respondents who had pursued many arduous lines of inquiry to attempt to establish their inherited right to land remain disappointed. M. Defoix,

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<sup>76</sup> Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission*, (Mauritius: Government of Mauritius, 2011), 9.

who made a deposition to the MTJC on his land claim drew a parallel with his treatment and that of his ancestors: they ‘were considered to be things and not human beings’; M. Defoix felt that he was still being deprived of his rights as a citizen. His comments recall the possibility that harm may be done by transitional justice processes, but the Commission did directly assist ‘a certain number’ of the 366 people in preparing dossiers for legal hearing on their land cases.<sup>77</sup>

Alex Boraine pressed the government publicly to implement the report.<sup>78</sup> However, there was little public pressure to do so. Press reporting of the report in the island’s newspapers was unenthusiastic or even non-existent: the daily *L’Express* made no mention of it in November or December 2011; *Weekend* carried a headline on page four: ‘Cash Compensation Out!; *Le Défi Plus* presented a strictly factual report with no comment.<sup>79</sup> <sup>80</sup> The result of the MTJC’s extensive report was evaluated by the journalist quoted above as ‘almost nothing’. It may have had some limited long-term effects in raising awareness of the links between historic and current deprivation by providing a synthesis of national labour history which involved some Creoles through its oral historical work. Yet, in common with much labour history, the MTJC account fails to accord sufficient centrality to and detail on the elite dimension, thereby failing to represent slavery and bonded labour in their totality as social *relationships*. It therefore fails to locate the history of labour within its full socio-economic context. The depth of labour’s exploitation cannot be fully understood without more detailed

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<sup>77</sup> Mauritius Truth and Justice Commission Report, *Volume I: Report of the Truth and Justice Commission*, (Mauritius: Government of Mauritius, 2011), 347-8.

<sup>78</sup> *Le Défi Plus*, 26 November 2011.

<sup>79</sup> *Weekend* ‘COMMISSION JUSTICE ET VÉRITÉ: Cash Compensation Out!’ 4 December 2011, <http://www.lemauricien.com/article/commission-justice-et-v%C3%A9rit%C3%A9%C2%A0-cash-compensation-out>

<sup>80</sup> *Le Défi Plus*, 26 November 2011.

examination of how and how far wealth was accumulated as a result. The contours are visible but they are only poorly defined and require further investigation. The conversion of slave assets to fungible form at emancipation was an important step in the process. These assets appear to have been invested elsewhere than in the island's under-capitalised sugar industry in the Nineteenth and Twentieth Centuries.<sup>81</sup> The island's financial sector has developed greatly in recent decades, making capital available for a wide range of local initiatives as well as for considerable investment in other African economies.<sup>82</sup> Thus, capital representing dead labour from slavery continues to operate and play a vital role both on the island and internationally.

## Conclusion

We set out to assess the utility of Gibson's theory on the conditions for success in 'transitional justice' contexts, suggesting that despite clear differences between them and that detailed above, there were similarities. We also sought to establish whether it was a cynical operation that attempted to evade proper examination of the past as Paul Van Zyl argues some such Commissions have been.

The MTJC was not considered a success by any informant, nor by any public source we consulted, mainly because its recommendations remain unimplemented. On a lower level, the MTJC did contribute in three of the four potential areas of achievement identified above. First, its formidable documentation has been referred to on occasion in public. Second, the MTJC assisted some complainants to establish viable cases for pursuing land claims. Third,

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<sup>81</sup> Richard B. Allen, *Slaves, Freedmen, and Indentured Labourers in Mauritius*, (Cambridge: Cambridge University Press, 1999).

<sup>82</sup> David Lincoln, 'Beyond the Plantation: Mauritius in the Global Division of Labour,' *Journal of Modern African Studies* 44(1) (2006) 59-78.

the government has agreed to memorialise slavery including by supporting Nelson Mandela Cultural Centre.

Gibson's legitimacy condition was not met and this draws attention to an important reason for the MJTC's failure in practical terms. The population at the centre of transitional justice must be aware and involved if Commissions are to operate in an environment conducive to success. As we have shown, the MTJC's origins did not facilitate such a situation. It arose from a process of inter-party negotiation rather than from any wider mobilisation involving the Commission's constituents. It also confronted an issue likely to be faced by any entity seeking to involve the descendants of slaves: the consequences of their exclusion in terms of their own wish and capacity to engage in the public sphere on an issue closely associated with deep pain and even shame. The MTJC's *modus operandi* also contributed to the legitimacy issue. It reflected the island's political culture in that the Commission's proceedings were in English, reporting was in the island's French-language newspapers and the Report has not yet been translated into Kreol. Collectively, these factors were the primary antecedents of the government's non-implementation of the Commission's recommendations.

Gibson's requirement of a credible history was only met on one level. The MTJC's findings are, at the professional scholarly sense, credible and have been confirmed and extended by the work of other historians since the report was published. The contribution was achieved by the deployment of a large team of professional historians as only they could be expected to deal with the disparate mass of often chaotic archival material and by the involvement of some two hundred slave descendants through the oral history project and those who made depositions on land issues. Nevertheless, there was clear evidence of a failure to involve key individuals with much information and credibility in the depositions made to the oral history project, as there was of an under-estimation of the significance of the oral tradition by the report's compilers. Full integration of the oral tradition was not achieved. In effect if not in

intention, many Creole voices had been silenced.<sup>83</sup> The MTJC account, although full of indignation, was not primarily that of the descendants of slavery. Both literally and figuratively, it did not speak their language. A certain dissonance between the scholarly and the popular therefore undermined the MTJC Report and its recommendations' resonance. However, it is not suggested here that production of a more multi-dimensional historical account would have induced the government to implement the recommendations. Gibson's requirement for credible history is less significant in the post-slavery context than in many transitional justice situations.

The experience has further consequences for the theory's application in post-slavery situations. First (as in South Africa) ruling elites must have decided to effect systemic change and accept a need to examine previous offences; no such acceptance obtained here. This appears likely to be replicated in post-slavery situations more widely because of historical distance and the fact that slavery is often perceived as having been 'legal at the time'. Second, and flowing from this, legitimacy appears likely more easily to be established where the problem for resolution is publicly apparent as a result of a mass social movement that has compelled the elite to acknowledge a problem. As we have shown, reluctance to engage with public debate was far from universal among Mauritian Creoles. Yet it existed and to that extent it limits, both there and more widely, the possibilities of applying Gibson's prescriptions in post-slavery contexts.

We also set out to determine whether the MTJC falls into Paul Van Zyl's category of 'cynical efforts to evade responsibility for dealing with the past'.<sup>84</sup> The long-term advocates of such a

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<sup>83</sup> Jelena Obradović-Wochnik, 'The 'Silent Dilemma' of Transitional Justice: Silencing and Confronting the Past in Serbia,' *International Journal of Transitional Justice* 7 (2) (2013): 382-347.

<sup>84</sup> Paul van Zyl, (2005) 'Promoting Transitional Justice in Post-Conflict Societies,' in *Security Governance in Post-Conflict Peacebuilding*, ed. Alan Bryden and Heiner Hänggi Geneva: Centre for the Democratic Control of Armed Forces: 227.

body certainly cannot be accused of cynicism since they pursued its foundation with more pro-descendant terms of reference and with long-term determination. Nor should the term be applied to the Commissioners, who attempted to involve slave descendants and denounced slavery, indentured labour and their contemporary effects in no uncertain terms. The Labour government might conceivably be accused of cynicism in that the party adopted the demand for such a body for electoral purposes and then ensured that the Commission would deal with the past but only within restricted terms of reference that marginalised possibilities of financial compensation to the descendants of slaves. Its failure to implement the Commission's findings provides further *prima facie* support for this line of argument. Yet the Commission is probably better viewed as the outcome of a political negotiating process within which the Government was constrained by historic compromises with vital economic interests both locally and internationally. This leads us to reflect that 'transitional justice' frameworks in general must attend to the structural influence exercised by both local economic elites and ex-imperial countries and their capacity to exercise power by setting agendas.